

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KENNETH LESTER JOHNSON,

Defendant-Appellant.

UNPUBLISHED

January 17, 2012

No. 301369

Oakland Circuit Court

LC No. 2010-231167-FC

Before: GLEICHER, P.J., and CAVANAGH and O'CONNELL, JJ.

MEMORANDUM.

A jury convicted defendant Kenneth Lester Johnson of first-degree premeditated murder, MCL 750.316(1)(a), and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b, in connection with the shooting death of his ex-girlfriend.¹ Defendant admits to killing the victim, but contends that the prosecution failed to present evidence of premeditation or deliberation, supporting conviction on a lesser offense. As the prosecution presented significant evidence that defendant came to the victim's home prepared to kill her and dispose of her body, we affirm his convictions and consecutive sentences of life imprisonment for murder and two years' imprisonment for felony-firearm.

We review challenges to the sufficiency of the evidence de novo, placing the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the evidence proved the essential elements of the crime beyond a reasonable doubt. *People v Ericksen*, 288 Mich App 192, 195-196; 793 NW2d 120 (2010). The premeditation and deliberation necessary to support a first-degree murder conviction can be shown by: (1) the relationship between the defendant and victim, (2) the defendant's actions before and after the killing, and (3) "the circumstances of the killing itself." *People v Schollaert*, 194 Mich App 158, 170; 486 NW2d 312 (1992). The prosecution need only show that the defendant had sufficient time, however short, to reconsider his actions. *People v Coy*, 243 Mich App 283, 315; 620 NW2d 888 (2000); *People v Conklin*, 118 Mich App 90, 93; 324 NW2d 537 (1982).

¹ The jury also convicted defendant of an alternate count of felony murder, MCL 750.316(1)(b), but the prosecution rescinded that count prior to sentencing to avoid double jeopardy issues.

The prosecution presented evidence that the victim had ended her relationship with defendant. Officers found rubber gloves, trash bags, a serrated knife and shotgun ammunition inside defendant's car, which was parked in front of the victim's home. This evidence more than amply suggests that defendant came to the victim's home prepared to commit murder. The wires had been cut to the victim's home security alarm and defendant's bloody palm print was found on the alarm's keypad. A shotgun loaded with the same ammunition type found in defendant's car was discovered hidden under the cushions of the victim's couch. The victim's car had been backed up the driveway and was parked halfway into the home's attached garage. The victim's keys were in the ignition and defendant's car keys were on the front passenger seat. The vehicle's trunk was open and a blanket was spread across the cargo area. Defendant was seen fleeing the scene and, when arrested, was carrying .9 millimeter ammunition, a gun holster and a fillet knife. Officers found a discarded .9 millimeter handgun in the shed where defendant was arrested. Such pre-planning clearly denotes premeditation and deliberation. *People v Fernandez*, 427 Mich 321, 341; 398 NW2d 311 (1986). There was also evidence suggesting that the murder took time. Shell casings and blood splatter were found in multiple rooms of the victim's home. The door to the victim's bedroom had been damaged during a forcible entry. The victim was able to dial 911 at some point during the attack, after which defendant fired the fatal shot into the victim's skull. Ultimately, defendant shot the victim eight times.

From this evidence, the jury could rationally infer that defendant planned his undetected entry into the victim's home by cutting the alarm wires. The jury could further infer that, once inside, defendant chased the victim while shooting at her. When the victim retreated into her bedroom and locked the door, defendant forced the door open and continued to shoot her. The length of the attack supports that defendant had ample opportunity to reconsider his actions. The jury could also reasonably infer that defendant prearranged to dispose of the victim's body. Defendant's own car keys were found in the victim's car, which was conveniently parked where he could load the trunk in privacy. Defendant had garbage bags and rubber gloves in his trunk. And blood trail evidence suggested that defendant had begun dragging the victim's body through the house before being interrupted by the police. Given the significant evidence presented by the prosecution, defendant's single appellate claim is completely meritless.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Mark J. Cavanagh
/s/ Peter D. O'Connell